

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELMER RIVERA-VELASQUEZ,

Petitioner,

-v-

THOMAS DECKER, *as Field Office Director, New York*
City Field Office, U.S. Immigration & Customs
Enforcement, et al.,

Respondents.
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19-CV-10297 (JMF)

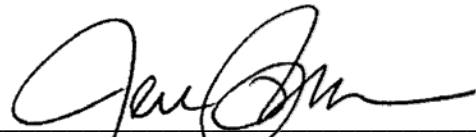
MEMORANDUM OPINION
AND ORDER

JESSE M. FURMAN, United States District Judge:

Having review the Government's and Petitioner's submissions, *see* ECF Nos. 21, 23, the Court concludes that the Due Process Clause of the Fifth Amendment requires that Petitioner receive a new bond hearing at which the Government is required to shoulder the burden to justify Petitioner's continued detention by clear and convincing evidence, and at which the Immigration Judge must consider, among other things, Petitioner's ability to pay bond and suitability for alternative conditions of release. *See Arce-Ipanaque v. Decker*, No. 19-CV-1076 (JMF), 2019 WL 2136727, at *3 (S.D.N.Y. May 15, 2019); *Linares Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018). Accordingly, Petitioner's amended petition for the writ of habeas corpus is GRANTED. Within **seven days of the date of this Order**, Respondents shall either take Petitioner before an Immigration Judge for an individualized bond hearing consistent with this Order or release him. The Clerk of Court is directed to enter judgment accordingly and close the case.

SO ORDERED.

Dated: December 17, 2019
New York, New York



JESSE M. FURMAN
United States District Judge